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OF THE

IDAHO LEGISLATURE

SECOND REGULAR SESSION
FIFTY-SEVENTH LEGISLATURE

THIRTY-FIRST LEGISLATIVE DAY
WEDNESDAY, FEBRUARY 11, 2004

Senate Chamber

At the request of the President Pro Tempore, Senator Darrington called the Senate to order at 11:15 a.m.

Roll call showed all members present except Senators Andreason, Burkett, Calabretta, Gannon, Little, Sorensen, and Stennett, absent and excused.

The Acting President announced that the Oath of Office has previously been administered to Acting Senator Enid Lee Davis, District 33.

Prayer was offered by Chaplain Don Hardenbrook.

The Pledge of Allegiance was led by Zach Gonzales, Page.

The Senate advanced to the Third Order of Business.

Reading and Correction of the Journal

The JUDICIARY AND RULES Committee reports that the Senate Journal of the proceedings of February 10, 2004, was read and approved as corrected.

DARRINGTON, Chairman

There being no objection, the report was adopted and ordered filed in the office of the Secretary of the Senate.

On request by Senator Stegner, granted by unanimous consent, the Senate advanced to the Fifth Order of Business.

Petitions, Resolutions, and Memorials

Senators Burkett, Little, and Stennett were recorded present at this order of business.

SJM 106

BY COMMERCE AND HUMAN RESOURCES COMMITTEE

A JOINT MEMORIAL

TO THE PRESIDENT OF THE UNITED STATES, TO THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES IN CONGRESS ASSEMBLED, TO THE SECRETARY OF THE TREASURY, TO THE CONGRESSIONAL DELEGATION REPRESENTING THE STATE OF IDAHO IN THE CONGRESS OF THE UNITED STATES AND TO GOVERNOR KEMPTHORNE.

We, your Memorialists, the Senate and the House of Representatives of the State of Idaho assembled in the Second Regular Session of the Fifty-seventh Idaho Legislature, do hereby respectfully represent that:

WHEREAS, protecting consumers and ensuring the safety and soundness of insurance companies operating in the United States have been the prime objectives of state insurance regulation for over 150 years; and

WHEREAS, the states have the sole authority to regulate the business of insurance as provided under the McCarran-Ferguson Act and as recently affirmed by the Gramm-Leach-Bliley Financial Services Modernization Act of 1999; and

WHEREAS, state insurance regulation has been successful and effective, and has continuously adapted to change in the marketplace including, but not limited to, the challenges of financial services modernization; and

WHEREAS, in responding to the Gramm-Leach-Bliley Financial Services Modernization Act, states already have successfully implemented reforms to meet the requirements of the law including, among other things, agent licensing reform and consumer financial privacy protections, and are working to develop and implement further efficiencies; and

WHEREAS, governors, state legislators, and insurance commissioners have acknowledged the need to streamline and simplify insurance regulation for the 21st century financial services marketplace and are enacting specific reforms to address differences in state laws and rules that can present obstacles to insurers, consumers' needs, and marketplace efficiencies; and

WHEREAS, some insurance companies and national associations representing insurers and banks support federal legislation to either establish one federal regulator of insurance or allow for dual federal and state insurance regulation; and

WHEREAS, if enacted by Congress, these proposals will bifurcate insurance regulation between the states and the federal government, undermining the state system of consumer protections and financial surveillance, as well as inevitably causing a loss of jobs, taxes, fees, and other vital and necessary state revenues needed to effectively regulate the insurance market and provide revenues to support residual market programs, such as high-risk pools.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Fifty-seventh Idaho Legislature, the Senate and the House of Representatives concurring therein, that the Idaho Legislature is committed to maintaining the states as the sole regulators of the business of insurance, and continue to support state efforts to streamline, simplify and modernize insurance regulation.

BE IT FURTHER RESOLVED that the Idaho Legislature will oppose any proposed federal law that undermines this state authority, including allowing insurers the ability to obtain federal charters, or ceding any authority to federal agencies to regulate financial institutions involved in the business of insurance.

BE IT FURTHER RESOLVED that the Secretary of the Senate be, and she is hereby authorized and directed to forward a copy of this Memorial to the President of the United States, the President of the Senate and the Speaker of the House of Representatives of Congress, the Secretary of the Treasury, the congressional delegation representing the State of Idaho in the Congress of the United States, and Governor Dirk Kempthorne as chairman of the National Governors Association.

**SCR 122
BY HEALTH AND WELFARE COMMITTEE**

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND
REJECTING CERTAIN RULES OF THE DEPARTMENT OF
HEALTH AND WELFARE RELATING TO THE MEDICAL
ASSISTANCE PROGRAM.

Be It Resolved by the Legislature of the State of Idaho:

WHEREAS, the Legislature is vested with authority to reject executive agency rules under the provisions of Section 67-5291, Idaho Code, in the event that the Legislature finds that the rules are not consistent with legislative intent; and

WHEREAS, it is the finding of the Legislature that certain rules of the Department of Health and Welfare relating to the Medical Assistance Program concerning investigation and audits and suspension of payments pending investigation, are not consistent with legislative intent and should be rejected.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Fifty-seventh Idaho Legislature, the Senate and the House of Representatives concurring therein, that IDAPA 16.03.09, Section 204 pertaining to the surveillance and utilization review committee, and Section 210 pertaining to appeals of immediate actions, rules of the Department of Health and Welfare relating to the Medical Assistance Program, adopted as pending rules under Docket Number 16-0309-0308, be, and the same are hereby rejected and declared null, void and of no force and effect.

SJM 106 and **SCR 122** were introduced, read at length, and referred to the Judiciary and Rules Committee for printing.

The Senate advanced to the Sixth Order of Business.

Reports of Standing Committees

Senator Gannon was recorded present at this order of business.

February 11, 2004

The JUDICIARY AND RULES Committee reports that **S 1297**, **S 1298**, and **SJM 105** have been correctly printed.

DARRINGTON, Chairman

S 1297 was referred to the State Affairs Committee.

S 1298 was referred to the Local Government and Taxation Committee.

SJM 105 was referred to the Tenth Order of Business, Motions and Resolutions, and ordered held at the Secretary's desk for one legislative day.

February 10, 2004

The JUDICIARY AND RULES Committee reports that **S 1239** has been correctly enrolled.

DARRINGTON, Chairman

The Acting President announced that enrolled **S 1239** will be held at the desk for the signature of the President and when so signed will be transmitted to the House for the signature of the Speaker.

February 10, 2004

The HEALTH AND WELFARE Committee reports it has had under consideration the Gubernatorial appointment listed below and the Committee recommends that said appointment be confirmed by the Senate:

Jay F. Kunze to the Hazardous Waste Facility Siting License Application Review Panel, term to expire March 6, 2006.

BRANDT, Chairman

The Gubernatorial appointment was referred to the Tenth Order of Business, Motions and Resolutions, and ordered held at the Secretary's desk for one legislative day.

February 11, 2004

The COMMERCE AND HUMAN RESOURCES Committee reports out **S 1226**, **S 1276**, and **S 1277** with the recommendation that they do pass.

ANDREASON, Chairman

S 1226, **S 1276**, and **S 1277** were filed for second reading.

February 11, 2004

The HEALTH AND WELFARE Committee reports out **S 1291** with the recommendation that it do pass.

BRANDT, Chairman

S 1291 was filed for second reading.

On request by Senator Stegner, granted by unanimous consent, the Senate advanced to the Ninth Order of Business.

Messages from the House

February 10, 2004

Mr. President:

I transmit herewith **H 500**, **H 564**, **H 563**, **H 562**, **H 561**, **H 560**, **H 559**, **H 542**, **H 540**, **H 554**, **H 546**, **H 547**, **H 548**, **H 605**, **H 505**, **H 506**, and **H 483** which have passed the House.

JUKER, Chief Clerk

H 500, **H 564**, **H 563**, **H 562**, **H 561**, **H 560**, **H 559**, **H 542**, **H 540**, **H 554**, **H 546**, **H 547**, **H 548**, **H 605**, **H 505**, **H 506**, and **H 483** were filed for first reading.

February 10, 2004

Mr. President:

I return herewith **SCR 119** which has passed the House.

JUKER, Chief Clerk

SCR 119 was referred to the Judiciary and Rules Committee for enrolling.

February 10, 2004

Mr. President:

I transmit herewith Enrolled **HCR 36** and **H 565** for the signature of the President.

JUKER, Chief Clerk

The Acting President announced that enrolled **HCR 36** and **H 565** will be held at the desk for the signature of the President and when so signed will be returned to the House.

February 10, 2004

Mr. President:

I return herewith Enrolled **S 1219**, **S 1231**, and **SCR 118** which have been signed by the Speaker.

JUKER, Chief Clerk

Enrolled **S 1219** and **S 1231** were referred to the Judiciary and Rules Committee for transmittal to the Office of the Governor.

Enrolled **SCR 118** was referred to the Judiciary and Rules Committee for transmittal to the Office of the Secretary of State.

On request by Senator Stegner, granted by unanimous consent, the Senate advanced to the Eleventh Order of Business.

**Introduction, First Reading and Reference of Bills,
House Petitions, Resolutions, and Memorials**

Senators Andreason and Sorensen were recorded present at this order of business.

S 1299

BY HEALTH AND WELFARE COMMITTEE

AN ACT

RELATING TO IMMUNITY FOR THE USE OF DEFIBRILLATORS; AMENDING SECTION 5-337, IDAHO CODE, TO ENUMERATE WHICH PERSONS TO WHOM LIMITED LEGAL IMMUNITY APPLIES IN USING A DEFIBRILLATOR, TO PROVIDE A CORRECT CODE REFERENCE AND TO PROVIDE THAT NO CAUSE OF ACTION SHALL BE MAINTAINED AGAINST THE PHYSICIAN OR OSTEOPATH WHO WROTE THE PRESCRIPTION FOR THE DEFIBRILLATOR IF THE PRESCRIPTION WAS WRITTEN IN GOOD FAITH; AND DECLARING AN EMERGENCY.

S 1300

BY COMMERCE AND HUMAN RESOURCES

COMMITTEE

AN ACT

RELATING TO NATUROPATHIC MEDICINE; AMENDING TITLE 54, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 51, TITLE 54, IDAHO CODE, TO PROVIDE A STATEMENT OF LEGISLATIVE PURPOSE, TO PROVIDE DEFINITIONS, TO REQUIRE A LICENSE, TO DEFINE SCOPE OF PRACTICE, TO SPECIFY PROHIBITIONS, TO SPECIFY EXEMPTIONS, TO PROVIDE CREATION OF THE BOARD OF NATUROPATHIC MEDICAL EXAMINERS, TO SPECIFY POWERS AND DUTIES OF THE BOARD, TO PROVIDE ESTABLISHMENT OF THE NATUROPATHIC FORMULARY COUNCIL, TO SPECIFY FEES, TO PROVIDE QUALIFICATIONS FOR LICENSURE, TO PROVIDE A RESTRICTED LICENSE FOR CURRENT PRACTITIONERS OF NATUROPATHIC MEDICINE, TO PROVIDE LICENSURE STANDARDS FOR OUT-OF-STATE APPLICANTS, TO PROVIDE FOR INVESTIGATION, HEARINGS AND SUBPOENA POWERS, TO PROVIDE DISCIPLINARY ACTION, TO PROVIDE FOR DENIAL OR REVOCATION PROCEDURE, TO PROVIDE ENFORCEMENT PENALTIES AND TO PROVIDE SEVERABILITY.

S 1301

BY HEALTH AND WELFARE COMMITTEE

AN ACT

RELATING TO MEDICAL INDIGENCY; AMENDING SECTION 31-3502, IDAHO CODE, TO INCLUDE MEDICAID COPAYMENTS AND DEDUCTIBLES AS A NON-NECESSARY MEDICAL SERVICE; AMENDING SECTION 31-3505, IDAHO CODE, TO REVISE PROCEDURES REGARDING THE TIME AND MANNER OF FILING APPLICATION AND REQUESTS FOR MEDICAL SERVICES WITH THE CLERK OF A COUNTY AND TO MAKE A TECHNICAL CORRECTION; AND AMENDING SECTION 31-A3504, IDAHO CODE, TO CHANGE THE REFERENCE TO THE DEFINITION OF RESOURCES.

S 1299, **S 1300**, and **S 1301** were introduced, read the first time at length, and referred to the Judiciary and Rules Committee for printing.

H 500, **H 563**, **H 562**, **H 561**, **H 560**, and **H 559**, by State Affairs Committee, were introduced, read the first time at length, and referred to the State Affairs Committee.

H 564, by State Affairs Committee, was introduced, read the first time at length, and referred to the Judiciary and Rules Committee.

H 542, by Revenue and Taxation Committee, was introduced, read the first time at length, and referred to the Local Government and Taxation Committee.

H 540, by Transportation and Defense Committee, was introduced, read the first time at length, and referred to the Transportation Committee.

H 554, by Trail, was introduced, read the first time at length, and referred to the Local Government and Taxation Committee.

H 546, **H 547**, and **H 548**, by Agricultural Affairs Committee, were introduced, read the first time at length, and referred to the Agricultural Affairs Committee.

H 605, by Health and Welfare Committee, was introduced, read the first time at length, and referred to the Health and Welfare Committee.

H 505 and **H 506**, by Revenue and Taxation Committee, were introduced, read the first time at length, and referred to the Local Government and Taxation Committee.

H 483, by Business Committee, was introduced, read the first time at length, and referred to the Commerce and Human Resources Committee.

The Senate advanced to the Twelfth Order of Business.

Second Reading of Bills

H 510, by State Affairs Committee, was read the second time at length and filed for third reading.

S 1283, by State Affairs Committee, was read the second time at length and filed for third reading.

The Senate advanced to the Thirteenth Order of Business.

Third Reading of Bills

S 1237 was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Richardson arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Bailey, Brandt, Bunderson, Burkett, Burtenshaw, Cameron, Compton, Darrington, Davis (Davis), Gannon, Geddes, Goedde, Hill, Ingram, Kennedy, Keough, Little, Lodge, Malepeai, Marley, McKenzie, McWilliams, Noble, Noh, Pearce, Richardson, Schroeder, Sorensen, Stegner, Stennett, Sweet, Werk, Williams. Total - 34.

NAYS--None.

Absent and excused--Calabretta. Total - 1.

Total - 35.

Whereupon the Acting President declared **S 1237** passed, title was approved, and the bill ordered transmitted to the House.

S 1238 was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Little arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Bailey, Brandt, Bunderson, Burkett, Burtenshaw, Cameron, Compton, Darrington, Davis (Davis), Gannon, Geddes, Goedde, Hill, Ingram, Kennedy, Keough, Little, Lodge, Malepeai, Marley, McKenzie, McWilliams, Noble, Noh, Pearce, Richardson, Schroeder, Sorensen, Stegner, Stennett, Sweet, Werk, Williams. Total - 34.

NAYS--None.

Absent and excused--Calabretta. Total - 1.

Total - 35.

Whereupon the Acting President declared **S 1238** passed, title was approved, and the bill ordered transmitted to the House.

S 1253 was read the third time at length, section by section, and placed before the Senate for final consideration. Senator McKenzie arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Bailey, Brandt, Bunderson, Burtenshaw, Cameron, Compton, Darrington, Davis (Davis), Gannon, Geddes, Goedde, Hill, Ingram, Keough, Little, Lodge, McKenzie, McWilliams, Noble, Pearce, Richardson, Schroeder, Sorensen, Stegner, Sweet, Williams. Total - 27.

NAYS--Burkett, Kennedy, Malepeai, Marley, Noh, Stennett, Werk. Total - 7.

Absent and excused--Calabretta. Total - 1.

Total - 35.

Whereupon the Acting President declared **S 1253** passed, title was approved, and the bill ordered transmitted to the House.

On request by Senator Stegner, granted by unanimous consent, **S 1227** and **S 1228** retained their place on the Third Reading Calendar for Monday, February 16, 2004.

On request by Senator Stegner, granted by unanimous consent, the Senate advanced to the Fifteenth Order of Business.

Miscellaneous Business

On motion by Senator Stegner, seconded by Senator Stennett, by voice vote the Senate adjourned at 12:10 p.m. until the hour of 11 a.m., Thursday, February 12, 2004.

DENTON DARRINGTON, Acting President

Attest: JEANNINE WOOD, Secretary

